

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>		EFFECTIVE DATE 06/01/08	NUMBER 06.01.140
SUBJECT PRE-SENTENCE INVESTIGATION AND REPORT		SUPERSEDES 06.01.140 (01/01/06)	
		AUTHORITY MCL 28.721 et seq., 445-81 - 445.87, 771.14., 791.203-205, 791.223, 791.229; Administrative Rule 791.9910	
		ACA STANDARDS 4-4102; 4-4298	
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#### **POLICY STATEMENT:**

A pre-sentence investigation (PSI) shall be conducted and a report prepared when ordered by a court to provide the judge and the Department with relevant and accurate information relating to the offender and the offense.

#### **RELATED POLICY:**

01.06.115 Sex Offenders Registration Act

#### **POLICY:**

#### GENERAL INFORMATION

- A. Generally, a PSI shall be conducted and a PSI report prepared after the offender has been found guilty of a felony. The PSI may be conducted and the report prepared prior to adjudication when specifically ordered by the court; e.g., assignment as a youthful trainee under the Holmes Youthful Trainee Act (HYTA).
- B. A PSI shall be conducted and a misdemeanor conviction report prepared for offenders convicted of a misdemeanor when referred by the court. All requirements set forth below for a PSI report shall apply; however, information contained in the report shall be modified as appropriate for a misdemeanor conviction.
- C. The field agent shall investigate the offender's background and character in order to provide all information required to be submitted to the court in a PSI report. A face to face interview with the offender shall be conducted to obtain this information, unless the offender is incarcerated in a Department facility; in such cases, the interview may be conducted by telephone in accordance with institutional and Field Operations Administration (FOA) procedures. The spouse, parents, other family members, or significant others shall be interviewed, when possible, to verify or dispute information provided by the offender. When possible, the agent also shall verify the offender's legal name, criminal history, education history, employment history, substance abuse history, physical and mental health history, and financial situation.
- D. As part of the PSI, the field agent shall verify the offender's Social Security number and enter the verified number in OMNI for tax reporting purposes. Verification shall be through a Social Security card, payroll record, federal or state tax form, or other means identified by the FOA Deputy Director or designee. If the offender does not have a Social Security number or the number cannot be verified, that shall be noted in the PSI report along with the action taken to attempt verification; the Social Security number itself shall not be included in the PSI report or any other written document or displayed publicly.

#### PSI REPORT

##### Content

- E. The PSI report shall contain information relevant to the offender's background and character, including all of the following information:

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1. An objective description of the offense, including the name and age of the victim(s).
2. The offender's description of the offense and the circumstances surrounding it, as well as any other statement the offender wishes to make.
3. A description of the offender's adult and juvenile criminal history. For convictions which involve criminal sexual conduct with a victim under 18 years of age, the victim's name, age at the time of the offense, relationship to the defendant, and the circumstances leading to the offense, to the extent known, shall be included.
4. A written impact statement or summary of an oral impact statement submitted by the victim, if requested to be included by the victim. The agent is not required to transcribe an oral statement. The agent shall ensure that the victim understands that information in the PSI report is disclosed to the offender unless the judge specifically exempts it.
5. Unless included in the victim's impact statement, the financial, social, psychological or physical harm suffered by any victim of the offense.
6. A description and status of all criminal charges that are pending against the offender at the time of the PSI.
7. The offender's education background; employment qualifications, background and status; military record; and social history including family relationships, marital status, financial status, interests, activities, and residence history.
8. Medical and substance abuse history, including a psychiatric or psychological report when available and appropriate or when requested by the court.
9. Information on any gang activity as set forth in PD 04.04.113 "Security Threat Groups".
10. If the offender is to be sentenced for an offense involving the illegal delivery, possession, or use of alcohol or a controlled substance, a statement that the offender is a licensed or registered health care professional, if applicable.
11. A statement by the prosecuting attorney on the applicability of any consecutive sentencing provision. It shall be noted if the statement has been requested but not provided by the prosecutor.
12. Any other information requested by the court, subject to supervisory approval.

F. The PSI report also shall contain a proposed plan for the offender, which shall include the following:

1. An evaluation of the offender with respect to his/her strengths, weaknesses, abilities, established behavior patterns, and readiness for change.
2. Information about available treatment centers, residential facilities, vocational training services, special educational facilities, rehabilitative programs or facilities to which the offender may be committed, special programs available through probation and other similar programs relevant to the offender's situation. This includes screening to determine eligibility for programs offered by the Office of Community Corrections (OCC). For offenders either not recommended or not eligible for OCC programs, the agent shall determine eligibility for the Special Alternative Incarceration Program as set forth in PD 05.01.142 "Special Alternative Incarceration Program".
3. If the offender is being considered for assignment as a youthful trainee under HYTA, information as to whether the offender is eligible for assignment pursuant to MCL 762.11 and, if so, the recommended disposition, consistent with MCL 762.13.

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4. A recommended disposition consistent with the recommended sentencing guideline range for the offense unless a departure is warranted, and OP FOA 06.01.141 "Pre-Sentence Investigation Recommendation Guidelines". If probation is a possible disposition, the proposed terms and conditions of probation, the objectives to be achieved and the proposed supervision program to achieve those objectives shall be included.
  5. The amount of restitution to be paid the victim, if applicable.
- G. The agent shall ensure that statements in the PSI report are clear, concise and accurate. Repetitive information shall be avoided. All sources of information shall be documented in the report. For example, if information is based solely on a statement by the offender it shall be noted in the report as "offender states".
  - H. The supervisor may review and, as appropriate, shall modify the PSI report, including the sentencing recommendation, to ensure reports comply with Department policy and procedure.

#### Timeliness

- I. Except if otherwise required by the court, a PSI report shall be completed within three weeks of referral for a confined offender and within four weeks for an offender on bond unless unusual circumstances delay completion, as approved by the supervisor. The PSI report shall be submitted to the court a minimum of two working days prior to the sentencing date unless otherwise required by the court.
- J. Field Operations Administration (FOA) Regional Administrators shall designate adequate staff resources to ensure timely submission of PSI reports. Agents may use nonprofessional staff (e.g., paraprofessionals, volunteers, student interns) to assist in the collection of information. However, in all cases the agent assigned to the case shall prepare the PSI report and shall be responsible for the accuracy of all information included.

#### Court Ordered Modifications/Distribution

- K. If the court finds during sentencing that the PSI report contains information which is inaccurate or irrelevant, the inaccurate or irrelevant information shall be completely removed from the report or otherwise rendered unreadable in all copies of the report before further distribution. If the court makes other changes to the PSI report or orders portions not be disclosed, it shall be reflected in all copies of the PSI report before further distribution.
- L. After sentencing, a copy of the PSI report shall be provided as set forth in PD 05.01.142 "Special Alternative Incarceration Program" for offenders sentenced to that Program. For all other offenders committed to the Department, five copies of the PSI report shall be transmitted to the appropriate facility when the offender is transferred. Facility Record Office staff shall forward one copy to the Central Office Record Office. For offenders not committed to the Department, copies shall be provided as set forth in OP FOA 06.01.140 "Pre-Sentence Investigation and Report Preparation".
- M. If, after sentencing, the court issues an order requiring a change to the PSI report or orders portions not be disclosed, the PSI report shall be amended in accordance with the court order. For an offender committed to the Department, five copies of the amended PSI report with the court order shall be transmitted to the Central Time Computation Unit (CTCU) in the Central Records Section of the Operations Division, Correctional Facilities Administration, with instructions to remove the initial PSI reports from the prisoner's files. CTCU staff shall forward four copies of the amended PSI report and a copy of the court order to the Record Office for the facility where the prisoner is incarcerated with instructions to remove the original PSI report from the prisoner's files; CTCU staff shall similarly forward one copy of the amended PSI report and a copy of the court order to the Central Office Record Office. The institutional Record Office and the Central Office Record Office shall ensure that all files are updated as required. For an offender not committed to the Department, copies shall be distributed as set forth in OP FOA 06.01.140.

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- N. After sentencing, the Department shall not make any additions, corrections, or deletions to the report not specifically ordered by the court.

#### MULTIPLE PSI REFERRALS

- O. The agent shall conduct only one PSI on an offender when multiple referrals from the same jurisdiction or county are received prior to submission of the original PSI report to the court. One PSI report shall be prepared and submitted to the court specific to each referral.

#### PSI REPORT UPDATES

- P. If a PSI report had been completed within three years prior to the date of the instant conviction, or the defendant has been continuously incarcerated since the last PSI report was prepared, the agent shall conduct a PSI to obtain any additional relevant information. A new conviction update report shall be prepared and attached to the most recently completed PSI report for submission to the court.
- Q. A PSI shall be conducted when sentencing of an offender has been delayed by court order. A delay of sentence update report shall be prepared and attached to the original PSI report prepared for the conviction for which sentencing was delayed. The reports shall be submitted to the court at least 30 calendar days prior to the expiration of the period identified in the court's order.
- R. A special investigation report shall be prepared when the defendant fails to appear for sentencing and the court requests supplemental information. The agent shall report relevant information on a Case Report form (CFJ-104), which shall be attached to the PSI report prepared for the conviction for which the defendant was being sentenced.

#### CONFIDENTIALITY

- S. The PSI report and all information obtained and records made to prepare the PSI report are confidential and, absent a signed release from the offender, shall only be released outside the Department to the court, the offender and his/her attorney, the Department of Attorney General, the Auditor General, and law enforcement agencies.
- T. Agents shall not make a promise of confidentiality to a source of information.
- U. Information that an offender is HIV positive shall not be reported in the PSI report. If an agent learns that the offender is HIV positive, the court shall be provided this information in a separate letter to the court. The source of the information (e.g., offender, family member, victim) shall be identified. An offender's HIV status shall not be disclosed except as directed by the court.

#### SEX OFFENDER REGISTRATION

- V. Agents shall identify and register those offenders required to be registered pursuant to the Sex Offenders Registration Act as set forth in PD 01.06.115 "Sex Offenders Registration Act". Where probation is a sentencing option for the offender, the agent shall make a recommendation in the PSI report that the court impose a special condition requiring compliance with the Sex Offenders Registration Act.

#### REPORTING OF FOREIGN-BORN OFFENDERS

- W. If the offender was born outside of the United States, the agent shall ensure that an Immigration Notification form (CFJ-204) is completed as required and sent to U.S. Immigration and Customs Enforcement (ICE). A CFJ-204 shall be completed for all persons convicted of a crime with a maximum penalty of imprisonment for more than one year. The CFJ-204 also shall be completed for all persons assigned to Holmes Youthful Trainee Act (HYTA) status where the underlying charge has a maximum penalty of imprisonment for more than one year.

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#### PROCEDURES

- X. The FOA Deputy Director shall ensure that operating procedures are developed as necessary to implement requirements set forth in this policy directive; a manual may be issued in lieu of operating procedures for this purpose. Operating procedures and/or manuals shall be completed within 60 calendar days after the effective date of this policy directive. This includes ensuring that existing procedures and manuals are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed.

#### AUDIT ELEMENTS

- Y. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist FOA Regional Administrators with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

APPROVED: PLC 05/28/08